

**REMARKS**

**I. Claim Status and Amendments to the Claims**

Claims 1-7 are all the claims pending in the application.

Claims 1 and 4 have been amended to recite that the binder resin comprises a block polymer and an amorphous polymer. Support for this amendment can be found at page 18, lines 16-18 of the specification.

Claims 3 and 7 have been amended to affirmatively recite that the claimed apparatus comprises the inventive toner.

**II. Objections to the Drawings**

At page 2, paragraph 1 of the Office Action, the drawings filed July 19, 2004 are objected to as not properly identified in the top margin as "Replacement Sheet," as required under 37 C.F.R. § 1.121(d).

In response, Applicants are filing corrected drawings, identified in the top margin as "Replacement Sheet," with this Amendment.

Accordingly, Applicants respectfully request reconsideration and withdrawal of this objection.

**III. Objections to the Disclosure**

At page 2, paragraph 2 of the Office Action, the disclosure is objected to for improper use of trademarks.

Specifically, the Examiner notes that trademarks (such as “Henshcel mixer” at page 68, line 12) should be capitalized wherever they appear and be accompanied by generic terminology.

In response, Applicants have amended the disclosure by correcting the trademarks in the Substitute Specification provided herewith. No new matter has been added.

Accordingly, Applicants respectfully request reconsideration and withdrawal of this objection.

#### **IV. Rejections to the Claims Under 35 U.S.C. §§ 102 and 103**

##### ***A. Hayase***

At page 4, paragraph 6 of the Office Action, claims 3 and 7 are rejected under 35 U.S.C. § 102(b) as being anticipated by US 5,753,399 (Hayase).

Specifically, the Examiner asserts that Hayase discloses an electrophotographic image forming apparatus that meets the structural components recited in instant claims 3 and 7. The Examiner acknowledges that Hayase does not exemplify the particular toners recited in the instant claims. However, the Examiner states that because the instant claims do not positively recite that the apparatuses comprise any particular toners, the toners recited in the instant claims do not distinguish the structural elements in the instantly claimed apparatuses from those in Hayase.

Claims 3 and 7 have been amended to affirmatively recite that the claimed apparatus comprises the toner recited in the present claims. As noted by the Examiner, Hayase fails to teach or suggest the inventive toner.

Thus, claims 3 and 7 are not anticipated by or obvious over Hayase, and Applicants respectfully request reconsideration and withdrawal of this rejection.

***B. Iida***

At page 5, paragraph 7 of the Office Action, claims 1-7 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over, US 2002/0051924 A1 (Iida).

Specifically, the Examiner states that Iida discloses a toner comprising a binder resin, a colorant, and 4 parts by weight of wax A, i.e., a release agent. According to the Examiner, the amount of wax A is within the releasing agent amount recited in instant claims 2 and 6.

The Examiner acknowledges that Iida does not disclose that the toner has the storage modulus properties recited in instant claims 1, 4, and 5. However, the Examiner asserts that because the toner disclosed in Iida appears to have the same properties sought by Applicants, it is reasonable to presume that the toner disclosed by Iida has the storage modulus properties recited in instant claims 1, 4, and 5. The Examiner also states that Iida further discloses an image-forming apparatus having structural components that meet the structural components recited in instant claims 3 and 7.

Claims 1 and 4 have been amended to recite that the binder resin comprises a block polyester and an amorphous polyester. Iida does not teach or suggest a binder resin comprising a block polyester and an amorphous polyester.

Accordingly, claims 1-7 are not anticipated by or obvious over Iida, and Applicants respectfully request reconsideration and withdrawal of this rejection.

**V. Double Patenting Rejections**

At pages 10-13 of the Office Action, claims 1, 2, and 4-6 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of copending Appln. No. 10/787,147.

Because this rejection is provisional, Applicants choose to postpone responding to this rejection until the time at which either application issues as a patent. See MPEP §804(I)(B).

**VI. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

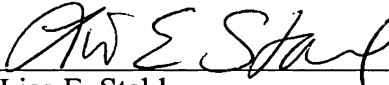
Respectfully submitted,

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

  
Lisa E. Stahl  
Registration No. 56,704

Date: September 28, 2005